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8 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

9 In the Matter of

10 **MIKE YOHA**

11 Holder of License No. 13936
12 For the Practice of Pharmacy
13 In the State of Arizona

**CONSENT AGREEMENT
FOR VOLUNTARY SURRENDER
NUMBER 07-0033-PHR**

14 **RECITALS**

15 In the interest of a prompt and judicious settlement of this case, consistent with the
16 public interest, statutory requirements and the responsibilities of the Arizona State Board
17 of Pharmacy ("Board") and under A.R.S. §§ 32 1901, *et. seq.* and 41 1092.07(F)(5), Mike
18 Yoha ("Respondent"), holder of Pharmacist License Number 13936 in the State of
19 Arizona, and the Board enter into the following Recitals, Findings of Fact, Conclusions
20 of Law and Order ("Consent Agreement") as a final disposition of this matter.

21 1. Respondent has read and understands this Consent Agreement and has had
22 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
23 opportunity to discuss this Consent Agreement with an attorney.

24 2. Respondent understands that he has a right to a public administrative
25 hearing concerning the above-captioned matter, at which hearing he could present
26

1 evidence and cross examine witnesses. By entering into this Consent Agreement,
2 Respondent knowingly and voluntarily relinquishes all rights to such an administrative
3 hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial review or
4 any other administrative and/or judicial action, concerning the matters set forth herein.

5 3. Respondent affirmatively agrees that this Consent Agreement shall be
6 irrevocable.

7 4. Respondent understands that this Consent Agreement or any part of the
8 agreement may be considered in any future disciplinary action by the Board against him.

9 5. Respondent understands this Consent Agreement deals with Board Case
10 No. 3241 involving allegations of unprofessional conduct against Respondent. The
11 investigation into these allegations against Respondent shall be concluded upon the
12 Board's adoption of this Consent Agreement.

13 6. Respondent understands that this Consent Agreement does not constitute a
14 dismissal or resolution of any other matters currently pending before the Board, if any,
15 and does not constitute any waiver, express or implied, of the Board's statutory authority
16 or jurisdiction regarding any other pending or future investigation, action or proceeding.

17 7. Respondent also understands that acceptance of this Consent Agreement
18 does not preclude any other agency, subdivision, or officer of this State from instituting
19 any other civil or criminal proceedings with respect to the conduct that is the subject of
20 this Consent Agreement.

21 8. All admissions made by the Respondent in this Consent Agreement are
22 made solely for the final disposition of this matter, and any related administrative pro-
23 ceedings or civil litigation involving the Board and Respondent. Therefore, any admis-
24 sions made by Respondent in this Consent Agreement are not intended for any other use,

1 such as in the context of another regulatory agency's proceedings, or civil or criminal
2 proceedings, whether in the State of Arizona or in any other state or federal court.

3 9. Respondent acknowledges and agrees that, upon signing this Consent
4 Agreement and returning this document to the Board's Executive Director, he may not
5 revoke his acceptance of the Consent Agreement or make any modifications to the
6 document regardless of whether the Consent Agreement has been signed by the Execu-
7 tive Director. Any modification to this original document is ineffective and void unless
8 mutually agreed by the parties in writing.

9 10. Respondent understands that the Consent Agreement shall not become
10 effective unless and until adopted by the Board and signed by its Executive Director.

11 11. If a court of competent jurisdiction rules that any part of this Consent
12 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
13 shall remain in full force and effect.

14 12. Respondent understands and agrees that if the Board does not adopt this
15 Consent Agreement, he will not assert as a defense that the Board's consideration of this
16 Consent Agreement constitutes bias, prejudice, prejudgment or other similar defenses.

17 13. Respondent understands that this Consent Agreement is a public record that
18 may be publicly disseminated as a formal action of the Board and may be reported as
19 required by law to the National Practitioner Data Bank and the Healthcare Integrity and
20 Protection Data Bank.

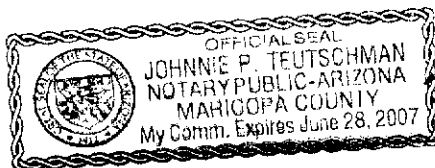
21 14. Respondent understands that any violation of this Consent Agreement
22 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-
23 1901.01(B)(20), -1927(A)(1).

1 ACCEPTED AND AGREED BY RESPONDENT

2 Mike Yoha
3 Mike Yoha

Dated: 01/22/2007

4 Subscribed and sworn to before me in the County of MARICOPA, State of ARIZONA,
5 this 22nd day of JANUARY, 2007, by Mike Yoha.



[Signature]
NOTARY PUBLIC

My Commission expires: JUNE 28, 2007

10 **FINDINGS OF FACT**

- 11 1. The Arizona State Board of Pharmacy ("Board") is the duly constituted
12 authority for licensing and regulating the practice of pharmacy in the State of Arizona.
- 13 2. Mike Yoha ("Respondent") is the holder of license number 13936 to
14 practice as a pharmacist in the State of Arizona.
- 15 3. On May 9, 2006 Respondent signed a consent agreement for
16 suspension and probation with the Board. As part of his terms of probation, Respondent
17 was to enter into an agreement with PAPA within ten days of the effective date of the
18 Order.
- 19 4. Respondent signed a PAPA contract on January 9, 2006. His contract
20 required him to complete intensive outpatient treatment at Valley Hope Treatment Center
21 ("Valley Hope"), submit twenty-four (24) random urine screens per year, attend weekly
22 group counseling sessions and attend three (3) self-help meetings per week.
- 23 5. On or about October 17, 2006, Board staff received information that
24 the Respondent was in violation of his PAPA contract.
- 25
26

1 6. On February 3, 2006, Respondent tested positive for Cocaine
2 Metabolite. Respondent admitted to taking the Cocaine and was referred to inpatient
3 treatment. His PAPA contract was terminated on February 6, 2006.

4 7. Respondent entered Valley Hope on February 7, 2006. On February
5 14, 2006, Respondent was discharged from Valley Hope for a policy violation.
6 Respondent re-entered the inpatient treatment program at Valley Hope on February 27,
7 2006, and completed the program on March 23, 2006.

8 8. Respondent signed a new PAPA contract on March 24, 2006. His new
9 contract required him to complete ninety (90) self-help meeting in ninety (90) days,
10 attend weekly peer group counseling sessions, submit twenty-four (24) random urine
11 screens per year and attend three (3) self-help meetings per week after the completion of
12 the ninety in ninety.

13 9. On August 23, 2006, Respondent tested positive for Cocaine
14 Metabolite. This test was confirmed by both CG/MS and a Medical Review Officer.

15 10. Respondent denied taking the Cocaine and asked for the specimen to
16 be re-tested. The specimen was re-tested and this test also came back positive.

17 11. Respondent requested to have the screen sent to another lab, and then
18 decided to have a hair analysis done at a laboratory of his choice, Parker Universal
19 Laboratory Services, Inc. The results were presented by Respondent to PAPA on
20 October 13, 2006, which showed a negative screen.

21 12. There were several discrepancies noted by the PAPA staff on the test
22 results, including a missing page from the results, no collector signature, specimen ID#,
23 and lack of a completed chain of custody form. Additionally, there was no signature that
24 the specimen was received at the lab, the primary specimen seal intact was not filled in
25 and the specimen released to information was not filled in.

1 13. The confirmed test that PAPA received from Sonora Quest
2 Laboratories showed Respondent's screen to be positive for Cocaine.

3
4 **CONCLUSIONS OF LAW**

5 1. The Board possesses jurisdiction over the subject matter and over
6 Respondent pursuant to A.R.S. § 32-1901 *et seq.*

7 2. The Board may discipline a pharmacist who has engaged in unprofessional
8 conduct. A.R.S. § 32-1927(A)(1).

9 3. The conduct and circumstances described above constitutes unprofessional
10 conduct pursuant to A.R.S. § 32-1901.01(B)(8) ("Committing a felony, whether or not
11 involving moral turpitude, or a misdemeanor involving moral turpitude or any drug
12 related offense.").

13 4. The conduct and circumstances described above constitutes unprofessional
14 conduct pursuant to A.R.S. § 32-1901.01(B)(10) ("Violating a federal or state law or
15 administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous
16 drugs, controlled substances or precursor chemicals when determined by the board or by
17 conviction in a federal or state court.").

18 5. The conduct and circumstances described above constitutes unprofessional
19 conduct pursuant to A.R.S. § 32-1901.01(B)(19) ("Violating or attempting to violate,
20 directly or indirectly, or assisting in or abetting in the violation of, or conspiring to
21 violate, this chapter.").

22 6. The conduct and circumstances described above constitutes unprofessional
23 conduct pursuant to A.R.S. § 32-1901.01(B)(20) ("Violating a formal order, terms of
24 probation, a consent agreement or a stipulation issued or entered into by the board or its
25 executive director pursuant to this chapter.").

1 **ORDER**

2 Based upon the above Findings of Fact and Conclusions of Law, and under the authority
3 granted to the Board, under A.R.S. §§32-1927.01, 41-1092.07(F)(5), and A.A.C. R4-23-
4 122(C),

5 **IT IS HEREBY ORDERED** that:

6 9. Pharmacist License No. 13936, which was issued to Respondent to allow
7 him to work as a pharmacist in the State of Arizona, shall be deemed **SURRENDERED**,
8 upon adoption of this Consent Agreement by the Board and Respondent shall
9 immediately return License No. 13936 to the Board.

10 DATED this 14th day of FEBRUARY, 2006.

11 ARIZONA STATE BOARD OF PHARMACY

12 (Seal)

13 By: 

14 HAL WAND, R.Ph.
15 Executive Director

16 ORIGINAL OF THE FORGOING FILED
17 this 14 day of FEB., 2006, with:

18 Arizona State Board of Pharmacy
19 4425 W. Olive Avenue, Suite 140
Glendale, Arizona 85302

20 EXECUTED COPY OF THE FOREGOING MAILED
21 BY REGULAR MAIL

this 14 day of FEB., 2006, to:

22 Michael Yoha
23 38305 N. 20th Drive
Phoenix, Arizona 85086

24
25 485942

C/o Mr Mac Wares

Enclosed is the completed and signed consent form.
I apologize profusely for not delivering this on Monday
as we had discussed. I managed to get myself stuck
in Northern AZ after a vehicle breakdown. Please feel
free to contact me if anything else is needed or with any questions
(23) 228 4626

Sincerely

Mike Pava